

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 28TH DAY OF SEPTEMBER 2018 / 6TH ASWINA, 1940

WP(C) .No. 19335 of 2018

PETITIONER:

RAJEEV
AGED 53, S/O.ACHUTHA MENON (LATE) , PALETHU,VADAMA,
CHALAKKUDY, THRISSUR DISTRICT.

BY ADVS.
SRI.V.MAHENDRANATH
SMT.M.VISHNUPRIYA
SRI.R.SYLESHWAREN NAIR

RESPONDENTS:

- 1 THE SPECIAL SALES OFFICER NO.IV
CO-OPERATIVE SANKHAM ASST. REGISTRAR (GENERAL)
OFFICE,MUKUNDAPURAM, IRINGALAKKUDA,
THRISSUR - 680001.
- 2 THE BRANCH MANAGER
ASHTAMICHIRA SERVICE CO-OPERATIVE BANK LTD.NO.325,
MALA BRANCH, THRISSUR DISTRICT - 680001.

BY ADVS.
SMT.LAYA SIMON
R2 BY SRI.SHEEJO CHACKO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28.09.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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J U D G M E N T

The petitioner, who availed loan for Rs.10 lakhs from the 2nd respondent Bank in the year 2014, has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P3 sale notice dated 24.4.2018 issued by the 1st respondent and seeking a writ of mandamus commanding respondents 1 and 2 to permit him to pay off the defaulted amount in instalments within a reasonable time to be fixed by this Court and to regularise the loan account.

2. On 12.6.2018, this Court admitted the matter on file and issued notice to respondents 1 and 2. This Court has also granted an interim stay of all further proceedings pursuant to Ext.P3 sale notice for one month, on condition that the petitioner remits an amount of Rs.1,50,000/- within one week.

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3. On 31.7.2018 when this writ petition taken up for consideration, it was submitted by the learned counsel for the 2nd respondent Bank that the sale of the property pursuant to Ext.P3 sale notice has already been conducted on 8.6.2018 i.e., even prior to the date of filing of this writ petition.

4. On 21.8.2018 when this writ petition was taken up for further consideration, it was submitted by the learned counsel for the 2nd respondent Bank that the petitioner has not complied with the conditions stipulated in the order of this Court dated 12.6.2018.

5. Heard the learned counsel for the petitioner and also the learned counsel for the 2nd respondent Bank. Despite service of notice, none appears for the 1st respondent Special Sale Officer.

6. The learned counsel for the petitioner would submit that the petitioner could not comply with the conditions stipulated in the order of this Court dated 12.6.2018, whereby he has been directed

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to deposit Rs.1,50,000/- within one week. The learned counsel would also submit that the petitioner is not in a position to pay off the liability due towards the 2nd respondent Bank, in monthly instalments, within reasonable time.

7. As already noticed, even prior to the filing of this writ petition, the property was sold in auction on 8.6.2018. The petitioner has also not complied with the conditions stipulated in the order of this Court dated 12.6.2018. Since the petitioner is not in a position to pay off the dues in monthly instalments, within a reasonable time, no relief can be granted in this writ petition.

In such circumstances, this writ petition fails and the same is accordingly dismissed.

All pending interlocutory applications are closed.

Sd/-

**ANIL K.NARENDRAN
JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE COPY OF THE RELEVANT PAGE OF THE
PASS BOOK IN RESPECT OF THE LOAN
ACCOUNT.

EXHIBIT-P2: TRUE COPY OF THE CASH RECEIPT
DT. 14.05.2018 ISSUED BY THE 2ND
RESPONDENT.

EXHIBIT-P3: TRUE COPY OF THE NOTICE DT. 24.04.2018
ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXTS.:

EXT. R2 (a) COPY OF AWARD IN A.R.C. No. 1622/16.

//TRUE COPY//

P.A. TO JUDGE

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